

**AGREEMENT BETWEEN
THE CITY OF EVANSVILLE
AND
Agency
HOME-Funded Owner-Occupied Rehab**

THIS AGREEMENT MADE on this _____ April, 2011 by and between the City of Evansville, hereinafter referred to as the "CITY", and the _____, an Indiana nonprofit corporation hereinafter referred to as the "AWARDEE".

WITNESSETH

WHEREAS, the CITY is the recipient of funds from the Home Investment Partnerships Program, hereinafter referred to as "HOME" from the U.S. Department of Housing and Urban Development (HUD), and

WHEREAS, the AWARDEE has submitted a proposal for use of HOME funds for an eligible project under HOME regulations in the amount of _____;

NOW, THEREFORE in consideration of the mutual covenants and obligations herein contained, including the Attachments, and subject to the terms and conditions hereinafter stated, the parties hereto understand and agree as follows:

Section I – Definition:

A. **AGENCY** – is hereby defined as the Department of Metropolitan Development, the HOME Program administering agency of the City of Evansville. For the purpose of this Agreement and all administration of HOME funds, the AGENCY shall act on behalf of the CITY in the execution and fiscal and programmatic control of this agreement. The term "Approval by the CITY" or like term used in this Agreement shall in no way relieve the AWARDEE from any duties or responsibilities under the terms of this Agreement, obligation, State or local law, or regulation.

B. **DIRECTOR** – is hereby defined as the Director of the Agency of the CITY.

C. **FEE** – is hereby defined as the amount of money the CITY agrees to pay and the AWARDEE agrees to accept as payment in full for all the professional, technical and construction services rendered pursuant to this Agreement to complete the WORK as further defined in Section IV - SCOPE OF PROFESSIONAL SERVICES, hereof.

D. **WORK** – is hereby defined as all the professional, technical and construction services to be rendered or provided by the AWARDEE as described here.

E. **PROJECT** – is defined in Section III below.

F. **HOME** – is hereby defined as the HOME Investment Partnerships Program as described in 24 CFR Part 92, under the authority of 42 U.S.C. 3535 (d) and 12701 - 12839.

Section II – Term

The Awardee expressly agrees to complete all work required by this agreement in accordance with the timetable set forth.

Milestone Deadline

Project Start Date

Interim Milestones/Deadlines (list below):

Project Completion Date

In addition, this project is subject to ongoing compliance requirements of HOME including monitoring of initial income verification, proof of primary residence, and other documentation as required to determine eligibility.

Timely completion of the work specified in this agreement is an integral and essential part of performance.

The expenditure of HOME funds is subject to Federal deadlines and could result in the loss of the Federal funds. By the acceptance and execution of this agreement, it is understood and agreed by the Awardee that the PROJECT will be completed as expeditiously as possible and that the Awardee will make every effort to ensure that the project will proceed and will not be delayed. Failure to meet these deadlines can result in cancellation of this contract and the revocation of HOME funds.

Since it is mutually agreed that time is of the essence with regards to this agreement, the Awardee shall cause appropriate provisions to be inserted in all contracts or subcontracts relative to the work tasks required by this agreement, in order to ensure that the PROJECT will be completed according to the timetable set forth. It is intended that such provisions inserted in any subcontracts be, to the fullest extent permitted by law and equity, binding for the benefit of the CITY and enforceable by the CITY against the Awardee and its successors and assigns to the project or any part thereof or any interest therein.

In the event the Awardee is unable to meet the above schedule or complete the above services because of delays resulting from Acts of God, untimely review and approval by the CITY and other governmental authorities having jurisdiction over the PROJECT, or other delays that are not caused by the Awardee, the CITY shall grant a reasonable extension of time for completion of the WORK. It shall be the responsibility of the Awardee to notify the CITY promptly in writing via change order at least ten (10) days prior to the stated milestone deadline, whenever a delay is anticipated or experienced, and to inform the City of Evansville all facts and details related to the delay.

Section III – Scope of Work

The Awardee, in close coordination with the CITY, shall perform all professional services (the "WORK") necessary to complete the development and occupancy of the following Project in full compliance with the terms of this Agreement. ***Owner-Occupied Rehab***

It is understood that the Awardee will provide a specific working budget and realistic timetable as relates to: construction/rehabilitation, prior to any fund usage. Said budget shall identify all sources and uses of funds, and allocate HOME and non-HOME funds to activities or line items. Upon approval by the Agency these items shall be included by attachment as follows:

Exhibit A: Project Budget

Exhibit B: Timetable

Exhibit C: Scope of Services

The aforementioned Work tasks will be performed in essentially the manner proposed in the AWARDDEE's proposal as received by the AGENCY on _____. The aforementioned document will be considered to be a part and portion of this agreement for reference.

Section IV – Reimbursement of Expenses

A. Project expenses shall be paid based on vouchers for actual expenses incurred or paid. Requests for payment must be submitted by the AWARDDEE on forms specified by the CITY, with adequate and proper documentation of eligible costs incurred in compliance with 92.206 and necessary for HUD IDIS disbursement requirements. All such expenses shall be in conformance to the approved project budget. Budget revision and approval shall be required prior to payment of any expenses not conforming to the approved project budget.

B. The CITY reserves the right to inspect records and project sites to determine that reimbursement and compensation requests are reasonable. The CITY also reserves the right to hold payment until adequate documentation has been provided and reviewed.

C. The AWARDDEE may submit a final invoice upon completion. Final payment shall be made after the CITY has determined that all services have been rendered, files and documentation delivered, and units have been placed in service in full compliance with HOME regulations, including submission of a completion report and documentation of eligible occupancy, property standards and long-term use restrictions.

D. The CITY shall have the right to review and audit all records of the AWARDDEE pertaining to any Owner-Occupied Rehabilitation funded in full or partially with funds delivered through this agreement. Said records shall be maintained for a period of five years after conclusion of the Period of Affordability.

Section V – Project Requirements

The AWARDDEE agrees to comply with all requirements of the HOME Program as stated in 24 CFR Part 92, including but not limited to the following.

A. No HOME project funds will be advanced, and no costs can be incurred, until the City has conducted an environmental review of the proposed project site as required under 24 CFR Part 58. The environmental review may result in a decision to proceed with, modify or cancel the project.

Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the City of Evansville a release of funds from the U.S. Department of Housing and Urban Development under 24 CFR Part §58. Further, the AWARDDEE will not undertake or commit any funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance, and must indicate that the violation of this provision may result in the denial of any funds under the agreement.

B. The AWARDDEE shall use the HOME Set Up form to request funding for specific addresses and the HOME Completion form is required in order for AWARDDEE to receive its Fee, after all other applicable requirements have been satisfied.

C. While predevelopment costs may be incurred prior to the AGENCY's issuance of a Notice to Proceed, this will be done at the AWARDDEE's own risk.

D. The HOME funds advanced to the PROJECT will be secured by a note and mortgage as required by 24 CFR Part 92.

E. The AWARDEE will ensure that any expenditure of HOME funds will be in compliance with the requirements at 92.206, and acknowledges that HOME funds will only be provided as reimbursement for eligible costs incurred, including actual expenditures or invoices for work completed.

F. If the project is to be owner-occupied, the AWARDEE will ensure that all HOME assisted units will be in compliance with 24 CFR 92.254, including documenting that the property is eligible under 92.254(a)(1) – (2), and will maintain compliance during the minimum compliance period.

G. The designated HOME-assisted units of this PROJECT will meet the affordability requirements as found in 92.254 (owner-occupied). The AWARDEE shall collect and maintain Project beneficiary information pertaining to household size, income levels, racial characteristics, and the presence of Female Headed Households in order to determine low and moderate-income benefit in a cumulative and individual manner. Income documentation shall be in a form consistent with HOME requirements as stated in the HUD *Technical Guide for Determining Income and Allowances under the HOME Program*.

FY 2010 Income Limits

AMI	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
0% - 30%	\$0 – \$12,900	\$0 – \$14,750	\$0 – \$16,600	\$0 – \$18,400	\$0 – \$19,900	\$0 – \$21,350	\$0 – \$22,850	\$0 – \$24,300
31% – 50%	\$12,901- \$21,500	\$14,751- \$24,600	\$16,601- \$27,650	\$18,401- \$30,700	\$19,901- \$33,200	\$21,351- \$35,650	\$22,851- \$38,100	\$24,301- \$40,550
51% – 80%	\$21,501- \$34,400	\$24,601- \$39,300	\$27,651- \$44,200	\$30,701- \$49,100	\$33,201- \$53,050	\$35,651- \$57,000	\$38,101- \$60,900	\$40,551- \$64,850

H. In the selection of occupants for PROJECT units, the AWARDEE shall comply with all nondiscrimination requirements of 24 CFR 92.350. If the project consists of 5 or more units, the AWARDEE will implement affirmative marketing procedures as required by 24 CFR 92.351. Such procedures are subject to approval of the AGENCY.

I. If the PROJECT is occupied at the time of this commitment, the AWARDEE will comply with the relocation requirements of 24 CFR 92.353.

J. The AWARDEE shall assure compliance with 24 CFR 92.251 as relates to Property Standards and Housing Quality Standards (HQS), Accessibility Standards under 24 CFR 92.251(a)(3) as applicable, and Lead Based Paint Requirements as found in 24 CFR 92.355 and 24 CFR Part 35.

K. The AWARDEE shall assure that any NOTES and MORTGAGES recorded for homebuyers shall be in compliance with 24 CFR 92.254 and that the AWARDEE will monitor each unit for principal residency (under 92.254(a)(3)) and resale/recapture (under 92.254 (a)(4) – (5)).

L. The Awardee will provide any documentation required by the Agency regarding match as may be required to document match for purposes of the HOME program.

M. If any project under this agreement involves the construction or rehabilitation of 12 or more HOME-assisted units, the Awardee shall comply with the provisions of the Davis-Bacon Act (40 U.S.C. 276 a to a - 7) as supplemented by Agency of Labor regulations (29 CFR, Part 5), as amended.

N. The Awardee will be monitored by the Agency for compliance with the regulations of 24 CFR 92 for the compliance period specified above. The Awardee will provide reports and access to project files as requested by the Agency during the Project and for Five (5) years after completion and closeout of the Agreement.

Section VI – Repayment of Loan

A. All HOME funds are subject to repayment in the event the Project does not meet the Project Requirements as outlined above.

B. It is understood that upon the completion of the Project, any HOME funds reserved but not expended under this agreement will revert to the City.

C. Awardee shall lend the HOME funds to the individual homeowners in an amount sufficient to rehabilitate the property. Any HOME funds shall be secured by a HOME note and mortgage as required in 92.254(a)(5)(ii), using the note and mortgage prescribed or approved by the Agency (and consistent with the method of recapture identified in the City's Consolidated Plan.)

1) Prior to each rehabilitation, the Awardee will provide to the Agency the income verification determination, awarded bid, and the bid summary sheet-signed by the homeowner(s).

Section VIII – Procurement Standards

The Awardee shall establish procurement procedures to ensure that materials and services are obtained in a cost-effective manner. The established procurement procedure must include the procurement policy established by the City of Evansville.

In addition, it is understood that any Awardee that can be considered to be a religious organization shall abide by all portions of 24 CFR 92.257.

Section IX – Conflict of Interest Provisions

The Awardee warrants and covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, which could conflict in any manner or degree with the performance of its services hereunder. The Awardee further warrants and covenants that in the performance of this contract, no person having such interest shall be employed.

HOME conflict of interest provisions, as stated in 92.356, apply to the award of any contracts under the agreement and the selection of tenant households to occupy HOME-assisted units.

No employee, agent, consultant, elected official, or appointed official of the Awardee may obtain a financial interest or unit benefits from a HOME-assisted activity, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. This prohibition includes the following:

- Any interest in any contract, subcontract or agreement with respect to a HOME-assisted project or program administered by the AWARDDEE, or the proceeds thereunder; or
- Any unit benefits or financial assistance associated with HOME projects or programs administered by the AWARDDEE, including:
 - Occupancy of a rental housing unit in a HOME-assisted rental project;
 - Purchase or occupancy of a homebuyer unit in a HOME-assisted project;
 - Receipt of HOME homebuyer acquisition assistance; or
 - Receipt of HOME owner-occupied rehabilitation assistance.

This prohibition does not apply to an employee or agent of the AWARDDEE who occupies a HOME-assisted unit as the on-site project manager or maintenance worker.

In addition, no member of Congress of the United States, official or employee of HUD, or official or employee of the Participating Jurisdiction shall be permitted to receive or share any financial or unit benefits arising from the HOME-assisted project or program.

Prior to the implementation of the HOME-assisted activity, exceptions to these provisions may be requested by the AWARDDEE in writing to the Participating Jurisdiction. The AWARDDEE must demonstrate and certify that the policies and procedures adopted for the activity will ensure fair treatment of all parties, and that the covered persons referenced in this policy will have no inside information or undue influence regarding the award of contracts or benefits of the HOME assistance. The Jurisdiction may grant exceptions or forward the requests to HUD as permitted by 24 CFR 92.356, 85.36 and 84.42, as they apply.

Section X – City Responsibilities

The CITY shall furnish the AWARDDEE with the following services and information from existing CITY records and CITY files:

- A. The CITY shall provide to the AWARDDEE information regarding its requirements for the PROJECT.
- B. The CITY will provide the AWARDDEE with any changes in HOME regulations or program limits that affect the project, including but not limited to income limits, property value limits and rent limits.
- C. The CITY will conduct progress inspections of work completed to protect its interests as lender and regulatory authority for the project, and will provide information to the AWARDDEE regarding any progress inspections or monitoring to assist it in ensuring compliance.
- D. At the CITY's sole discretion it may engage the AWARDDEE in technical assistance and training in order to address capacity issues with AWARDDEE. Technical assistance services for this PROJECT include technical assistance and training for the following:

Initial inspections	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Cost estimating	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Development of scopes of work	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Bid packaging and procurement	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Construction management	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Client intake and underwriting	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
File set up and administration	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

The CITY's review and approval of the WORK will relate only to overall compliance with the general requirements of this Agreement and HOME regulations, and all CITY regulations and ordinances.

Nothing contained herein shall relieve the AWARDDEE of any responsibility as provided under this Agreement.

Section XI – Equal Employment Opportunity

During the performance of this contract, the AWARDDEE agrees as follows:

A. The AWARDDEE will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin(s). The AWARDDEE will take affirmative action to ensure the applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin(s). Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The AWARDDEE agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

B. The AWARDDEE will, in all solicitations or advertisements for employees placed by or on behalf of the AWARDDEE, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

C. The AWARDDEE will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or worker's representative of the AWARDDEE's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. The AWARDDEE will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

E. The AWARDDEE will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the AGENCY and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and order.

F. In the event the AWARDDEE is found to be in noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the AWARDDEE may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965 or by rule, regulations, or order of the Secretary of Labor or as otherwise provided by law.

G. The AWARDDEE will include the provisions of paragraphs (a) through (g) of this agreement in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The AWARDDEE will take such action with respect to any subcontract or purchase order as the AGENCY may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the AWARDDEE becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the AGENCY, the AWARDDEE may request the United States to enter into such litigation to protect the interest of the United States.

Section XII – Labor, Training & Business Opportunity

The AWARDDEE agrees to comply with the federal regulations governing training, employment and business opportunities as follows:

A. It is agreed that the WORK to be performed under this agreement is on a project assisted under a program providing direct Federal financial assistance from the US Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 u, as well as any and all applicable amendments thereto. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given low and moderate income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the project area.

B. The AWARDDEE shall comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 Code of Federal Regulations and all applicable rules and orders of the AGENCY of Housing and Urban Development issued thereunder as well as any and all applicable amendments thereto prior to the execution of this contract as well as during the term of this contract. The AWARDDEE certifies and agrees that it is under no contractual or other disability, which would prevent it from complying with these requirements as well as any and all applicable amendments thereto.

C. The AWARDDEE will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the CITY, take appropriate action pursuant to the subcontractor upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, in 24 Code of Federal Regulations. The AWARDDEE will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 code of Federal Regulations and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with these requirements as well as with any and all applicable amendments thereto.

D. Compliance with the provisions of Section 3, the regulations set forth in 24 Code of Federal Regulations and all applicable rules and orders of the AGENCY of Housing and Urban Development issued thereunder prior to the execution of the contract shall be a condition precedent to federal financial assistance being provided to the PROJECT as well as a continuing condition, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the AWARDDEE or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by 24 Code of Federal Regulations as well as with any and all applicable amendments thereto.

Section XIII – Compliance with Federal, State & Local Laws

The AWARDDEE covenants and warrants that it will comply with all applicable laws, ordinances, codes, rules and regulations of the state local and federal governments, and all amendments thereto, including, but not limited to; Title 8 of the Civil Rights Act of 1968 PL.90-284; Executive Order 11063 on Equal Opportunity and Housing Section 3 of the Housing and Urban Development Act of 1968; Housing and Community Development Act of 1974, as well as all requirements set forth in 24 CFR 92 of the HOME INVESTMENT PARTNERSHIP PROGRAM. The AWARDDEE covenants and warrants that it will indemnify and hold the City forever free and harmless with respect to any and all damages whether directly or indirectly arising out of the provisions and maintenance of this contract.

The AWARDDEE agrees to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

The AWARDDEE further warrants and agrees to include or cause to be included the criteria and requirements of this section in every non-exempt subcontract in excess of \$100,000. The AWARDDEE also agrees to take such action as the federal, state or local government may direct to enforce aforesaid provisions.

Section XIV – Suspension & Termination

In accordance with 24 CFR 85.43, suspension or termination may occur if the AWARDDEE materially fails to comply with any term of the award, and that the award may be terminated for convenience in accordance with 24 CFR 85.44.

If, through any cause, the AWARDDEE shall fail to fulfill in timely and proper manner its obligations under this contract, or if the AWARDDEE shall violate any of the covenants, agreements, or stipulations of this contract, the CITY shall thereupon have the right to terminate this contract by giving written notice to the AWARDDEE of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, the AWARDDEE shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder to the date of said termination. Notwithstanding the above, the AWARDDEE shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any breach of the contract by the AWARDDEE and the CITY may withhold any payments to the AWARDDEE for the purpose of setoff until such time as the exact amount of damages due the CITY from the AWARDDEE is determined whether by court of competent jurisdiction or otherwise.

Section XV – Termination for Convenience of the CITY

The CITY may terminate for its convenience this contract at any time by giving at least thirty (30) days notice in writing to the AWARDDEE. If the contract is terminated by the CITY, as provided herein, the City will reimburse for any actual and approved expenses incurred, including those costs involved in terminating the contracts and shutting down the work as of the date of notice, and the AWARDDEE will be paid as a FEE an amount which bears the same ratio to the total compensation as the services actually performed bear to the total service of the AWARDDEE covered by this contract less payments of compensation previously made. Claims and disputes between the parties will be submitted to the American Arbitration Association for resolution. Award or judgment may be entered in any court having jurisdiction thereof.

Section XVI – Default-Loss of Grant Funds

If the AWARDDEE fails in any manner to fully perform and carry out any of the terms, covenants, and conditions of the agreement, and more particularly if the AWARDDEE refuses or fails to proceed with the work with such diligence as will insure its completion within the time fixed by the schedule set forth in Exhibit B of this agreement, the AWARDDEE shall be in default and notice in writing shall be given to the AWARDDEE of such default by the AGENCY or an agent of the AGENCY. If the AWARDDEE fails to cure such default within such time as may be required by such notice, the CITY, acting by and through the AGENCY, may at its option terminate and cancel the contract.

In the event of such termination, all grant funds awarded to the AWARDDEE pursuant to this agreement shall be immediately revoked and any approvals related to the PROJECT shall immediately be deemed revoked and canceled. In such event, the AWARDDEE will no longer be entitled to receive any compensation for work undertaken after the date of the termination of this agreement, as the grant funds will no longer be available for this project.

Such termination shall not effect or terminate any of the rights of the CITY as against the AWARDDEE then existing, or which may thereafter accrue because of such default, and the foregoing provision shall be in addition to all other rights and remedies available to the CITY under the law and the note and mortgage (if in effect), including but not limited to compelling the AWARDDEE to complete the project in accordance with the terms of this agreement, in a court of equity. The waiver of a breach of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition hereof.

Section XVII – Reporting Responsibilities

The AWARDDEE agrees to submit any and all monthly reports required by HUD or the CITY to the AGENCY by the 5th day following the end of each month and the 5th day following the completion of this agreement. The AWARDDEE agrees to submit any and all annual reports required by HUD or the CITY to AGENCY by January 10th of each year, unless provided elsewhere.

AWARDEE agrees to provide:

- A. Annual occupancy certification letter to the homebuyer via certified mail;
- B. Annual property insurance policy listing City of Evansville as additional insured, with notice provisions.

The AGENCY will send the AWARDDEE one reminder notice if an annual or monthly report has not been received fourteen (14) days after the due date. If the AWARDDEE has not submitted a report fourteen (14) days after the date on the reminder notice, the CITY will have the option to terminate the contract as described in this agreement. In addition, the AWARDDEE agrees to provide the AGENCY information as required to determine program eligibility, in meeting national objectives, and financial records pertinent to the project.

Section XVIII – Inspection, Monitoring & Access to Records

The CITY reserves the right to inspect, monitor, and observe work and services performed by the AWARDDEE at any and all reasonable times.

The CITY reserves the right to audit the records of the AWARDDEE any time during the performance of this Agreement and for a period of five years after final payment is made under this Agreement.

If required, the AWARDDEE will provide the AGENCY with a certified audit of the AWARDDEE's records representing the Fiscal Year during which the PROJECT becomes complete whenever the amount listed in SECTION VII is at or exceeds \$500,000, pursuant to the requirements of OMB Circular A-133.

Access shall be immediately granted to the CITY, HUD, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the AWARDDEE or its contractors which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

Section XIX – General Conditions

A. All notices or other communication which shall or may be given pursuant to this Agreement shall be in writing and shall be delivered by personal service, the U.S. Postal Service or by registered mail addressed to the other party at the address indicated herein or as the same may be changed from time to time. Such notice shall be deemed given on the day on which personally served; or, if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

Notice to City: City of Evansville

Department of Metropolitan Development
1 NW Martin Luther King Jr. Blvd, Room 306
Evansville, IN 47708
Attn: Laura Walker, Community Development Coordinator

Notice to AWARDEE:

- B. Title and paragraph headings are for convenient reference and are not a part of this Agreement.**
- C. In the event of conflict between the terms of this Agreement and any terms or conditions contained in any attached documents, the terms in this Agreement shall rule.**
- D. No waiver or breach of any provision of this Agreement shall constitute a waiver of a subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.**
- E. The parties hereto agree that this Agreement shall be construed and enforced according to the laws of the State of Indiana.**
- F. Should any provisions, paragraphs, sentences, words or phrases contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Indiana or the City of Evansville, such provisions, paragraphs, sentences, words or phrases shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable to conform with such laws, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect.**
- G. The AWARDEE shall comply with the provisions of the Copeland Anti-Kick-Back Act (18 U.S.C. 874) as supplemented in the AGENCY of Labor Regulations (29 CFR Part 3), as amended.**
- H. The AWARDEE shall comply with the provisions of sections 103 and 107 of the Contract Work Hours and Safety Standard Act (40 U.S.C. 327-330) as supplemented by AGENCY of Labor regulations (29 CFR, Part 5), as amended.**
- I. The AWARDEE further warrants and agrees to include or cause to be included the criteria and requirements of paragraphs (G) through (H) of this section in every nonexempt subcontract. The AWARDEE also agrees to take such action as the federal, state or local government may direct to enforce aforesaid provisions.**
- J. The obligations undertaken by AWARDEE pursuant to this Agreement shall not be delegated or assigned to any other person or agency unless CITY shall first consent to the performance or assignment of such service or any part thereof by another person or agency.**
- K. The Agreement shall be binding upon the parties hereto, their heirs, executors, legal representative, successors and assigns.**
- L. AWARDEE shall indemnify and save CITY harmless from and against any negligent claims, liabilities, losses and causes of action which may arise out of AWARDEE's activities under this**

Agreement, including all other acts or omissions to act on the part of AWARDDEE, including any person acting for or on its behalf, and, from and against any orders, judgments, or decrees which may be entered, and from and against all costs, attorneys fees, expenses and liabilities incurred in the defense of any such claims, or in the investigation thereof.

M. AWARDDEE and its employees and agents shall be deemed to be independent contractors, and not agents or employees of the CITY, and shall not attain any rights or benefits under the civil service or pension ordinances of the CITY, or any rights generally afforded classified or unclassified employee; further they shall not be deemed entitled to state Compensation benefits as an employee of the CITY.

N. Funding for this Agreement is contingent on the availability of funds and continued authorization for program activities and is subject to amendment or termination due to lack of funds, or authorization, reduction of funds, and/or change in regulations.

IN WITNESS WHEREOF,

The City of Evansville and the Community Action Program of Evansville have caused their signatures to be hereunto affixed and duly attested:

City of Evansville

Agency

By: Thomas Barnett, Executive Director
Department of Metropolitan Development
Its Duly Authorized Agent

By: _____, Executive Director
Its Duly Authorized Agent

Attest

By: Jane Reel, Deputy Director
Department of Metropolitan Development

Exhibit A: Project Budget

Exhibit B: Timetable

Exhibit C: Scope of Services